

REMARKS/ARGUMENTS

This paper is responsive to the Non-Final Office Action dated October 22, 2004, having a shortened statutory period expiring on January 24, 2005 wherein:

Claims 1-9, 11-16, 18-28, and 30-38 were previously pending in the application; and

Claims 1-9, 11-16, 18-28, and 30-38 were rejected.

In the present response to Office Action, no new claims were added, claims 7-9, 18, 19, 24-28, 30 and 38 were canceled without prejudice of disclaimer of the subject matter recited therein, and claims 1, 11, 21-23, 31 and 34 were amended. Accordingly, claims 1-6, 11-16, 20-23, and 31-37 remain currently pending.

*Rejection of Claims under 35 U.S.C. §102*

In the present Office Action, claims 1, 5, and 38 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 4,617,017, issued to Hubbard et al. (hereinafter, "**Hubbard**"). While not conceding that the cited reference qualifies as prior art, but instead to expedite prosecution, Applicants have elected to traverse-in-part and in part overcome the claim rejections as follows. The following arguments are made without prejudice to Applicants' right to establish, for example in a continuing application, that the cited reference does not qualify as prior art with respect to an invention embodiment currently or subsequently claimed.

A *prima facie* case of anticipation requires the disclosure, in a single prior art reference, of each and every element of the claimed invention, arranged as in the claim. Additionally, it has been well established that submitted claims are to be given their broadest reasonable definition consistent with Applicants' disclosure (see MPEP §2111, citing *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000)).

Applicants respectfully submit that the present Office Action fails to address all elements and/or limitations of Applicants' claim 1 as amended herein and consequently fails to establish a *prima facie* case of anticipation with respect to that claim. More specifically, it is stated within the present Office that,

Hubbard discloses a planar substrate (12) having a first surface (20); a cable fastener having a second plurality of fasteners of one of a plurality of hook and loop mechanisms

(29), a variable width opening (capable of encircling cables, see figure 3), an elongated body (26), a head portion (24), a head defining an opening (28).

and further that,

...separate by definition means “to divide into constituent parts” (Merriam Webster’s Collegiate Dictionary tenth edition). Hubbard clearly discloses that the cable fastener (22) is a separate and individual part which functions to hold a tubular member to another separate and individual part[,] the planar substrate (12). The cable fastener (22) and substrate (12) are also separate from one another since the cable fastener is attached to another part (14) and not directly to the substrate (12); therefore the cable fastener (22) when not attached to the substrate (12) via the Velcro members the cable fastener is separate from the substrate (12).

Applicants respectfully disagree. Applicants respectfully submit that **Hubbard** fails to teach a cable fastener which is “separate” from a substrate as previously claimed. As previously stated, the Manual of Patent Examining Procedure clearly establishes that claims are to be given their broadest reasonable definition consistent with Applicants’ disclosure (see MPEP §2111). Consequently, each claim term or word is to be given its “plain meaning” as interpreted by one of ordinary skill in the relevant art unless a contrary definition is provided within the specification. Additionally, where extrinsic reference sources, such as dictionaries, evidence more than one definition for a term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with Applicant’s use of the term and any inconsistent definitions must be rejected (see MPEP §2111.01).

Applicants respectfully submit that the use of the verb form “separate” in the Examiner’s prior interpretation of Applicants’ claim 1 as previously submitted is unreasonable in view of the structure of Applicants’ claim when read in light of Applicants’ specification (see, e.g., Applicants’ Figs. 5, 6 and 8) and consequently the Examiner’s rejection is traversed. While Applicants maintain **Hubbard** fails to teach a cable fastener which is “separate” from a substrate as previously claimed (see, e.g., **Hubbard**, Fig. 4, which clearly shows cable fastener 22 coupled through section 14 to section 12 via seam 16) Applicants have further clarified claim 1 herein to recite a cable fastener which is completely detachable from a substrate. Applicants respectfully submit that **Hubbard** fails to teach such a limitation and the Examiner’s rejection is therefore overcome.

Moreover, with regard to Applicants' claim 1, Applicants respectfully submit that **Hubbard** fails to teach, show, or suggest an apparatus comprising:

a rigid frame, wherein the rigid frame comprises at least one planar surface;  
a substrate having a first surface and a second surface substantially opposite the first  
surface, wherein the first surface of the substrate contains a first plurality of  
fasteners of one of a plurality of hook and loop mechanisms and the second  
surface of the substrate is coupled to the planar surface of the rigid frame; ...

as required by Applicants' claim 1 as amended (emphasis supplied), and generally required by Applicants' claims 11, 23 and 34. **Hubbard**'s personal catheter leg strap (10) is wrapped around a limb or other such surface (**Hubbard**, Column 3, Lines 35-42) and therefore must be constructed of a flexible material. **Hubbard** clarifies this, teaching that, "section 14 is fabricated of an elastic webbing material which is stretchable in a lengthwise direction but has a relatively defined dimension across its width. The section 12 is fabricated of a gauze type material having a woven surface 18 on the bottom side thereof..." (**Hubbard**, Column 2, Line 61 – Column 3, Line 1). Consequently, Applicants respectfully submit that **Hubbard** may not be construed as teaching, showing, or suggesting, "a rigid frame" or a substrate having a surface coupled to a surface of such a rigid frame as claimed.

*Rejection of Claims under 35 U.S.C. §103*

In the present Office Action, claims 1-9, 11-16, 18-28 and 30-38 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,624,403, issued to Jaquith (hereinafter, "**Jaquith**") in view of **Hubbard**. While not conceding that the cited reference qualifies as prior art, but instead to expedite prosecution, Applicants have elected to overcome the claim rejections as follows. The following arguments are made without prejudice to Applicants' right to establish, for example in a continuing application, that the cited reference does not qualify as prior art with respect to an invention embodiment currently or subsequently claimed.

Applicants respectfully submit that neither **Hubbard** nor **Jaquith** teach, show, or suggest, an apparatus comprising:

a rigid frame, wherein the rigid frame comprises at least one substantially planar surface; a substrate having a first surface and a second surface substantially opposite the first surface, wherein the first surface of the substrate contains a first plurality of fasteners of one of a plurality of hook and loop mechanisms and the second surface of the substrate is coupled to the substantially planar surface of the rigid frame; ...

as required by Applicants' claim 1 as amended (emphasis supplied), and generally required by Applicants' claims 11, 23 and 34. For at least the reasons previously stated herein, Applicants respectfully submit that **Hubbard** fails to teach, show, or suggest "a rigid frame" as claimed. According to the teaching of **Jaquith**, a management system for medical tubes and cables is provided which includes a flexible expanse of material (**Jaquith**, Abstract, emphasis supplied). While **Jaquith** teaches attachment to rails (23) or other suitable portions of a patient reclining support (22) such as a stretcher or bed, nowhere within the Examiner's cited portion of **Jaquith** is a rigid frame having a substantially planar surface taught to which material 10 or any portion thereof is coupled. Consequently, Applicants respectfully submit that neither Jaquith nor Hubbard teach, show, or suggest all elements of Applicants' claims and the Examiner's rejection is therefore overcome.

Applicants further respectfully submit that one of ordinary skill in the art would not have been motivated to combine the teachings of **Hubbard** with **Jaquith** as indicated in the present Office Action. As it has been clearly shown herein, according to the teaching of **Hubbard**, catheter tube securing strap (22) is fixedly attached at one end thereof to junction (16), consequently, any combination of the teaching of **Hubbard** and **Jaquith** would necessarily fail to teach, show, or suggest a cable fastener which is completely detachable from the substrate as required by Applicants' claims.

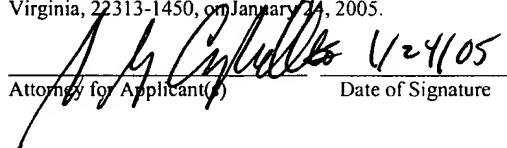
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Applicants therefore respectfully submit that independent claims 1, 11, 23 and 34 are allowable over the Examiner's cited references. All remaining claims depend directly or indirectly from those claims and are therefore allowable for at least those reasons stated for the allowability of those claims.

CONCLUSION

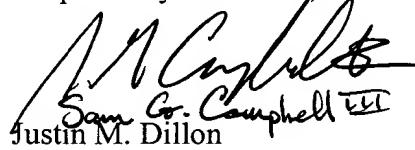
Applicant(s) submit that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450, on January 24, 2005.

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Attorney for Applicant(s)

Date of Signature

Respectfully submitted,

  
Sam G. Campbell Esq.  
Justin M. Dillon  
Attorney for Applicant(s)  
Reg. No. 42,486  
Telephone: (512) 439-5097  
Facsimile: (512) 439-5099

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for